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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,745	06/27/2003	Ford K. Dotterer	DTJ	7577
20191	7590	10/19/2004	EXAMINER	
DAVID KIEWIT 5901 THIRD ST SOUTH ST PETERSBURG, FL 33705			PATEL, TAJASH D	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 10/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,745

Applicant(s)

DOTTERER, FORD K.

Examiner

Tejash D Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/11/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koven (US 5,313,810). Koven discloses a combination necktie (7) and an ornament holder (10) that includes a four in hand knot (9), col. 3, lines 27-31 having upper and lower ends as shown in figure 6. Further, the ornament holder formed of a sheet metal, col. 4, lines 33-45 being defined by a base portion that is narrower than the upper end of the knot with a rigid link portion (13) extending downward from the base. The rigid link portion includes an ornament (12) attached thereto, such that the ornament is disposed in front of a free end of the necktie as shown in figure 7. Also, the holder is inserted within the knot forms two legs extending upwardly from the base and diverging from each other when viewed from the top. Additionally, the two legs are curved about a horizontal axis as shown in figure 7. However, Koven does not show the ornament extending below the lower end of the knot.

It would have been obvious to one skilled in the art at the time the invention was made to extend the link of Koven so that the ornament extends below the lower end of the knot depending on the particular application thereof. Furthermore, it would have been obvious that the holder can have different widths to correspond to the knot as required or depending on the end use thereof.

The “whereby” statement in claim 1 has not been given patentable weight since it does not positively limit the metes and bounds of the patent protection as desired.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koven (US 5,313,810) as applied to claim 1 above, and further in view of Yasui (US 4,173,793). Koven discloses the invention as set forth above except for showing the link of the holder being a chain.

Yasui discloses a combination necktie (24) and an ornament holder (7, 9) that includes a four in hand knot, figures 14-15 having upper and lower ends as shown in figure 11. Further, the ornament holder is defined by a base portion that is narrower than the upper end of the knot with a link portion being a chain (8).

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It would have been obvious to one skilled in the art at the time the invention was made to substitute the link portion of Koven with a chain link portion as taught by Yasui as an alternative but equivalent means of suspending the ornament relative to the necktie.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

October 13, 2004



Tejash D Patel
Primary Examiner
Art Unit 3765